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EXAMINER

TAYLOR, JOSHUA D

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/806,713 | Applicant(s) NISHIKAWA ET AL. | |
| | Examiner JOSHUA TAYLOR | Art Unit 2426 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Office Action is in response to APPLICANT ARGUMENTS entered September 7, 2010 for the patent application 10/806,713 filed on March 23, 2004.
2. The Office Action of June 4, 2010 is fully incorporated into this Final Office Action by reference.

Status of Claims

3. Claims 1-13 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Ohkura et al. (Pat. No.: US 6,005,601) and Anwar (Pat. No.: US 5,767,854).

Regarding claim 1, Nakamura discloses **a method comprising: providing access to a plurality of characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063-0065] i.e., accepting instruction for display

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EPG data); **providing a program guide by simultaneously displaying a plurality of the characterizing descriptors for each of a plurality of the discrete selectable items using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information, wherein the axes of the cylinders are vertical. However, Nakamura does not explicitly disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time**. However, if one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, and as is further taught by Ohkura (Figure 18), one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the difference between Nakamura and Applicant's claimed invention is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combining this view of Nakamura with the teaching of Ohkura, which suggests an electronic program guide can be composed of several cylinders with horizontal axes (Figs. 3-13 and 18. col. 2, ln. 12 – col. 15,

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ln. 50, specifically col. 5, ln. 26 – col. 6, ln. 28), one of ordinary skill in the art at the time of the invention would have found it obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylinders. Furthermore, any problems arising from such a transition, such as the need to reformat the words and letters of the various cells that make up Nakamura's cylinders, could have been solved by one of ordinary skill in the art at the time of the invention using Ohkura's teaching from at least Figure 18. This would result in a plurality of horizontal cylinders, representing a plurality of channels, and a plurality of times, said times progressing from left to right, as seen if one turns Nakamura's Figure 15 ninety degrees counter-clockwise. From this point, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura to allow for different time periods to be designated a separate cylinder. This would have produced a predictable and desirable result, in that users would be given an electronic program guide display that more closely resembled a conventional display in the art, wherein the time occupies the x-axis and channels occupy the y-axis.

Although Ohkura's figure 18 shows arrows indicating that each separate area can be rotated, neither Nakamura nor Ohkura explicitly disclose **responding to user input by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects.** However, in analogous art, Anwar discloses a heptagonal (seven sided) solid "1" with a plurality of levels "2," wherein each level "2" can spin about the central axis of the solid independently (Fig. 1, col. 6, ln. 57 – col. 7,

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ln. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura and Ohkura to allow for the time slot cylinders to rotate independently. This would have produced predictable and desirable results, in that it would provide the user with a method of scrolling through certain pieces of information, while maintaining the position of the rest of the program guide display.

Regarding claim 2, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0011], [0063]-[0064]).

Regarding claim 3, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (paragraph [0110]).

Regarding claims 4, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items** (paragraphs [0105]-[0106]).

Regarding claims 5, **the method of claim 4** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by altering the display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items on a page basis** (paragraphs [0105]-[0106]).

Regarding claims 6, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by signaling user**

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selection of a particular one of the discrete selectable items of audio/video content

(paragraphs [0105]-[0106]).

Regarding claims 7, **the method of claim 6** is rejected as stated above, and Nakamura discloses **further comprising: sending a signal indicating user selection of the particular one of the plurality of discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claim 9, Nakamura discloses **an interactive program guide system comprising: characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063]-[0065] i.e., accepting instruction for display EPG data); **control circuitry that displays a plurality of the characterizing descriptors using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed** (Nakamura, paragraph [0008]), **such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Figs. 3 and 15, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information, wherein the axis of the cylinders are vertical. However, Nakamura does not explicitly disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time**. However, if one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, and as is further taught by Ohkura (Figure 18), one would have a plurality of horizontal

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cylinders, and there would be a plurality of different times represented. From this standpoint, the difference between Nakamura and Applicant's claimed invention is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combining this view of Nakamura with the teaching of Ohkura, which suggests an electronic program guide can be composed of several cylinders with horizontal axes (Figs. 3-13 and 18. col. 2, ln. 12 – col. 15, ln. 50, specifically col. 5, ln. 26 – col. 6, ln. 28), one of ordinary skill in the art at the time of the invention would have found it obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylinders. Furthermore, any problems arising from such a transition, such as the need to reformat the words and letters of the various cells that make up Nakamura's cylinders, could have been solved by one of ordinary skill in the art at the time of the invention using Ohkura's teaching from at least Figure 18. This would result in a plurality of horizontal cylinders, representing a plurality of channels, and a plurality of times, said times progressing from left to right, as seen if one turns Nakamura's Figure 15 ninety degrees counter-clockwise. From this point, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura to allow for different time periods to be designated a separate cylinder. This would have produced a predictable and desirable result, in that users would be given an electronic program guide display that more closely resembled a conventional display in the art, wherein the time occupies the x-axis and channels occupy the y-axis.

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Although Ohkura's figure 18 shows arrows indicating that each separate area can be rotated, neither Nakamura nor Ohkura explicitly disclose **and wherein the control circuitry is operably responsive to user input to scroll the display of the plurality of the characterizing descriptors, and wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects.** However, in analogous art, Anwar discloses a heptagonal (seven sided) solid "1" with a plurality of levels "2," wherein each level "2" can spin about the central axis of the solid independently (Fig. 1, col. 6, ln. 57 – col. 7, ln. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nakamura and Ohkura to allow for the time slot cylinders to rotate independently. This would have produced predictable and desirable results, in that it would provide the user with a method of scrolling through certain pieces of information, while maintaining the position of the rest of the program guide display.

Regarding claim 10, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 11, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]).

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Regarding claim 12, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura discloses **further comprising: a remote control device; and wherein the control circuitry is operably responsive to the remote control device** (paragraphs [0006]-[0010] and [0105]-[0106]).

5. Claims 8 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Ohkura et al. (Pat. No.: US 6,005,601) and Anwar (Pat. No.: US 5,767,854) as applied to claims 1 and 9 above respectively, and further in view of Sai et al. (US Pat. 6,822,661).

Regarding claim 8, the combined teachings of Nakamura, Ohkura and Anwar disclose the method of claim 1, but do not disclose further comprising **using a jog dial to do at least one of: scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items; paging a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items.** However, Sai et al does (column 5, lines 11-14). Sai et al. teach that a jog dial could be used in place of directional buttons. Therefore, one skilled in the art would have found it obvious to use a jog dial as an alternative to directional buttons.

Claim 13 is rejected on the same grounds as claim 8 above.

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Response to Arguments

6. Applicant's arguments filed September 7, 2010 have been fully considered but they are not persuasive.

Regarding Applicant's argument on page 6 concerning the rejection in general:

In support of the rejection, the Examiner suggests modifications to Nakamura and Ohkura that are extreme and hardly obvious. The suggested modification to Nakamura renders the invention set forth therein unsatisfactory for its intended purpose, and the suggested modification to Ohkura changes its principles of operation. Moreover, the proposed combination of Nakamura, Ohkura, and Anwar introduces problems that one of ordinary skill in the art would be unable to solve merely given the teachings of the cited references. In sum, no fair combination of Nakamura, Ohkura, and Anwar that does not rely upon the hindsight application of Applicants' own teachings and that does not require extreme modifications that are above and beyond mere design choice will yield the recitations of Applicants' claims. These points are discussed in more detail below.

Examiner's response:

Examiner contends that turning the vertical cylinder on its side to become a horizontal cylinder is not an extreme modification, and furthermore that one of ordinary skill in the art at the time of the invention would have found it obvious after repositioning the cylinders to then change the size of the respective boxes and areas so that the text would fit properly, especially with the insight provided by the Ohkura teaching. Turning the cylinder on its side does not render the invention unsatisfactory for its intended purpose; it still displays television programming and times to a user. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d

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347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, all three references discuss the concept of three dimension cylinder-type shapes, and how said shapes may be manipulated in order to convey information to a user. One of ordinary skill in the art at the time of the invention would have found it obvious to make the modifications to Nakamura, as taught by Ohkura and Anwar, in order to arrive at Applicant's claimed invention. This statement will be further supported below in response to the remainder of Applicant's arguments.

Regarding Applicant's argument on pages 6-8 concerning claims 1 and 9:

In making this rejection, the Examiner relies upon Nakamura's presentation of a three dimensional cylindrical display and more particularly upon Nakamura disclosing "multiple 3-dimensional cylindrical displays displaying program guide information, wherein the axis of the cylinders are vertical." While Nakamura does disclose (in his FIG. 15, shown at the right) a multiple-vertical-cylinder embodiment, it is noted that each cylinder presents, for each of a plurality of channels, programming content information for a plurality of different times.

As acknowledged by the Examiner, this is different from the Applicants' claimed approach. For example, Applicants' claims 1 and 9 specify that each three dimensional object "corresponds to a different time."

Nakamura, on the other hand, teaches that each cylinder presents programming for a plurality of times. Applicants' claims 1 and 9 also specify that "each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects." Nakamura, however, does not disclose that the cylinders in FIG. 15, or in any embodiment for that matter, are independently scrollable.

To meet these deficiencies, the Examiner relies upon the combination of Nakamura, Ohkura, and Anwar. Specifically, the Examiner contends that combining Nakamura with Ohkura, which the Examiner notes "suggests an electronic program guide can be composed of several cylinders with horizontal axes (Figs. 3-13 and 18, col. 2, ln. 12- col. 15, ln. 50, specifically col. 5, ln. 26 - col. 6, ln. 28), one of ordinary skill in the art at the time of the invention would have found it obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylindersFrom this point it would have been obvious... to modify Nakamura to allow for different time periods to be designated [on] a separate cylinder."2 The Examiner then suggests that "any problems arising from such a transition, such as the need to reformat the words and letters of the various cells that make up Nakamura's cylinders, could have been solved by one of ordinary skill in the art at the time of the invention using Ohkura's teaching from at least Figure 18.

Examiner's response:

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Examiner points Applicant to Nakamura, Figures 2, 3, 6, 10, etc. In these figures, Nakamura shows a plurality of time segments in a vertical column, such as in Figure 3, where channel 1 has segments A1 through A7, wherein these segments A1-A7 represent different programs over a period of time. When the cylinder is turned on its side, these programs will be turned so that the time now runs along the horizontal axis rather than the vertical axis, but still displays a plurality of times.

Regarding Applicant's argument on page 8 concerning claims 1 and 9:

With all due respect, the Applicants observe and submit that making such extreme modifications of Nakamura and Ohkura, with or without the influence of Anwar, is hardly obvious. As Applicants have explained in previous papers, one does not achieve a usable result by merely modifying Nakamura as suggested by the Examiner. In the modified view of Nakamura's FIG. 2 shown at the right to accord with such a change, one immediately discovers corresponding resulting problems that would "render [Nakamura] being modified unsatisfactory for its intended purpose." The intended purpose of Nakamura is to provide a display that provides users with an electronic program guide in which the program data for multiple channels may be easier seen than in conventional guides. However, the modification the Examiner proposes defeats this purpose. For example, while some of the program data fits within the one time being displayed, a program with a longer duration (at the top) is severed while another channel hosts one complete program (or possibly shows only the conclusion of a first program, which in any event is ambiguous at best) and the beginning of another program (near the bottom). Such problems do not lend themselves to providing a guide that is easier to view and comprehend, which is the stated purpose of Nakamura. Rather, we respectfully submit that such problems would tend to discourage a skilled person from pursuing this modification of Nakamura at all. See MPEP § 2140.01 V in these regards.

Examiner's response:

Examiner contends that such problems as Applicant proposes would arise if one were to turn the cylinder of Nakamura on its side could have been addressed with obvious solutions by one of ordinary skill in the art at the time of the invention. For instance, if a cylinder representing the time period from 8:00 pm to 8:30 pm contained 2 program, it could be split into two parts so

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that the left side represented the first 15 minutes (for example) and the first program, and the right side represented the second 15 minutes and the second program. This would not detract from the effectiveness of the display.

Furthermore, and more importantly, Applicant's specification does nothing to address the above proposed problem. That is, there is no teaching in the specification of how to address a situation where a time segment cylinder has more than one program. Applicant has raised this issue as a purported weakness in the instant rejection, and yet one of ordinary skill in the art at the time of the invention, with Applicant's specification as a teaching, would have to use the same obvious problem solving used in the instant rejection to solve the problem posed by Applicant, in order to create a functioning program guide. Examiner concedes that such a functioning guide could be created by said skilled artisan based solely on Applicant's specification, but further submits that a functioning program guide could also be created based on the disclosures of Nakamura, Ohkura and Anwar. The point is that both approaches would require the obvious problem solving skill of how to handle a time-segment cylinder that contained more than one program.

Regarding Applicant's argument on pages 8-9 concerning claims 1 and 9:

Moreover, these problems that would be created by the proposed modification to Nakamura are not problems that are solved by merely "reformat[ing] the words and letters of the various cells that make up Nakamura's cylinders" as the Examiner suggests, nor has the Examiner offered any contrary illustrative examples as to how merely reformatting words and letters will ameliorate such serious deficiencies. In fact, there is nothing in Nakamura, Ohkura, or Anwar that would suggest how one might handle such problems and their corresponding ambiguity. As a result, it is inappropriate to view such a significant alteration of Nakamura as being merely an obvious modification. This difficulty presents new challenges that would require being solved and hence disqualifies this approach as being a "mere design choice."

Examiner's response:

An illustrative example would be that if a box is 10 units high and 20 units wide, and could contain 200 characters, then one could fit 10 rows with 20 characters in each row. So, 10 lines of text, with each line containing a maximum of 20 characters, could fit into this box.

If one were to turn said box "on its side," such that the box were 20 units high and 10 units wide, 200 characters would still fit in said rotated box. However, now said rotated box could fit 20 rows with 10 characters in each row. So, 20 lines of text, with each line containing a maximum of 10 characters, could fit into this rotated box.

In either case, 200 characters can fit, and the process of fitting such text into either box is a trivial task for any type of modern word processing program, a program which must exist in some form in program guide creation software.

Regarding Applicant's argument on pages 8-9 concerning claims 1 and 9:

In addition to the problems associated with the Examiner's proposed modification of Nakamura, Applicants' claims also provide for being able to independently scroll through the information on a single three dimensional object, hence leaving the other three dimensional objects as they were. The Examiner acknowledges that "[a]lthough Ohkura's figure 18 shows arrows indicating that each separate area can be rotated, neither Nakamura nor Ohkura explicitly disclose responding to user input by scrolling . . . wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors on the other three dimensional objects." The Examiner suggests that Anwar can be used to supplant this claimed recitation, with particular reliance being based upon Anwar's Fig. 1 and col. 6, ln. 57 - col. 7, ln. 4.

Ohkura's FIG. 18 is reproduced below for the convenience of the Examiner and can be described as a program list that Ohkura refers to as a "cylinder EPG." Ohkura's cylinder EPG is divided into areas X1, X2, Y, and Z, corresponding to the date, time, program information, and genre, respectively. Ohkura teaches that a user can move a cursor to cause any one of these areas to scroll. However, *Ohkura further* teaches that as the selected area is scrolled,

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information in the other areas can *change accordingly*. By definition, Ohkura's scrollable areas are *not* independent of one another but rather are *interdependent*. FIGS. 11A and 11B of Ohkura show this concept. For example, as the user moves the cursor in AREA Y from "Today's News" to "Thriller," the time displayed in AREA X2 changes from "8" to "9" because Thriller is a program that begins at 9:00. Therefore, even if Ohkura is viewed as teaching separate three dimensional objects, the three dimensional objects are *not* independently scrollable because scrolling one object causes the information shown on the other object(s) to change.

Examiner's response:

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Specifically, the Ohkura reference is simply brought in to teach the concept that a programming guide that appears as a three-dimensional cylinder could be presented to a user with a horizontal axis, which when used as a teaching in combination with the Nakamura reference could lead one of ordinary skill in the art at the time of the invention to rotate the vertical cylinders of Nakamura in order to make them horizontal. The limitation concerning independently scrollable cylinders is addressed by Anwar.

Regarding Applicant's argument on page 10 concerning claims 1 and 9:

Furthermore, Applicants respectfully observe that Ohkura's teachings would actually motivate a person skilled in the art away from *independently* scrollable three dimensional objects when displaying available programming results, regardless of the teachings of Anwar. This is because Ohkura teaches interdependence between scrollable areas such that as the user modifies information in one area, the information in other areas is updated accordingly. Because the Examiner's proposed modification of Ohkura to provide for independent scrolling would "change the principle of operation of the prior art invention being modified," the teachings of Ohkura and Anwar are not sufficient to render the claim obvious.

Examiner's response:

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Again, the Ohkura reference is simply brought in to teach the concept that a programming guide that appears as a three-dimensional cylinder could be presented to a user with a horizontal axis. Every detail from the specification of a prior art of record does not have to align with Applicant's invention. It is the clear teaching in Anwar, that a seven sided solid with a plurality of levels can have each level spin about the central axis of the solid independently, that is used to reject the limitation concerning independence between scrollable areas.

Conclusion

6. Claims 1-13 are rejected.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755.

The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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